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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 205

JOHN HARRY BRUNO,

Petitioner,

v.

PENNSYLVANIA,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF PENNSYLVANIA, EASTERN DISTRICT

BRIEF FOR PETITIONER

DANIEL L. QUINLAN, JR.
16 West Airy Street
Norristown, Pa. 19401

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CITATIONS TO OPINIONS

The majority and concurring and dissenting (three) Opinions of the Pennsylvania Supreme Court are reported in 435 Pennsylvania State Reports at page 200 (1969). An earlier Opinion of the Pennsylvania Supreme Court is reported in 424 Pennsylvania State Reports at page 96 (1967).

The Trial Court's Opinion is reported in 87 Montgomery County Law Reporter at page 81 (1966).

STATEMENT OF JURISDICTION

Having been indicted for five (5) murders, the petitioner contends that the Commonwealth of Pennsylvania has denied him the right to a jury trial as guaranteed by the Fifth (5th) and Sixth (6th) Articles of the Constitution of the United States and Article I, Section Nine (9) of the Constitution of Pennsylvania, which provide, inter alia, as follows:

ARTICLE V

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury . . . nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law. . . ."

ARTICLE VI

. . "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence."

ARTICLE I, SECTION IX CONSTITUTION OF PENNSYLVANIA

"In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his

favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land."

STATUTE INVOLVED

The Commonwealth of Pennsylvania arrested and indicted the petitioner and then committed him to an institution for the criminal insane under the Pennsylvania Mental Health Act of June 12, 1951, P.L. 533, Article III, Section 344, as amended, 50 Pennsylvania Statutes (since repealed) and the Section cited as authority for the Commonwealth was Subsection (b) of Section 344 (50 Pennsylvania Purdons Statutes) which provided as follows:

"(b) The application shall be in writing on a form prescribed by the department. It may be made by counsel for the prisoner or the superintendent, warden, jail physician, or other executive officer of the institution in which the person sought to be committed is detained, or by any responsible person, whether or not he is connected with such institution."

QUESTION PRESENTED FOR REVIEW

May the Commonwealth of Pennsylvania substitute a Sanity Commission for a jury trial and deny petitioner his Constitutional rights to be tried on five murder indictments?

STATEMENT OF THE CASE

John Harry Bruno was arrested on April 26, 1966 and admittedly held incommunicado for more than twenty-four hours - without counsel. According to the then Montgomery County District Attorney, on April 27, 1966,

Bruno confessed to five murders. He was charged before a Justice of the Peace on the evening of the 27th. After entering a plea of not guilty at the preliminary hearing held on May 4, 1966, Bruno was recommitted to the Montgomery County Prison to await indictment and trial.

On May 13, 1966, the County District Attorney petitioned the Court to commit Bruno to a mental institution for the criminally insane. By Opinion and Order, dated July 6, 1966, the trial Court dismissed petitioner's objections and appointed a Sanity Commission. On January 4, 1967, the petitioner's Appeal from the latter Order was quashed by the Pennsylvania Supreme Court as being interlocutory.

Meanwhile, the petitioner had been indicted on June 2, 1966 and charged with the commission of five murders.

The Sanity Commission held hearings in March and April of 1967. The Commission heard of the petitioner's admissions. The Commission declared petitioner legally insane and unable to confer with counsel and the Court adopted the Commission's Report on June 12, 1967 and dismissed the petitioner's Exceptions on June 30, 1967.

On July 3, 1967, John Harry Bruno petitioned for a Writ of Habeas Corpus which was dismissed the same day. Two Appeals followed. One Appeal was based on the refusal of Habeas Corpus and the other on the commitment without a trial. The Supreme Court of Pennsylvania heard oral argument on January 11, 1968 and again, on the Court's own motion, on May 1, 1969. In a four-three ruling, the Pennsylvania Supreme Court affirmed Bruno's commitment without a trial.

ARGUMENT

John Harry Bruno has pleaded "not guilty". He has never at any time pleaded the defense of insanity. Insanity is a defense personal to the defendant - not available to the prosecutor as an excuse for failure to prosecute. The Commonwealth should not be permitted to obtain an illegal confession and then contend that if the defendant did what the Commonwealth claims he admitted doing, he must be crazy and, therefore, unable to stand trial. The conduct of the Commonwealth is absolutely frightening. The petitioner has been arrested, charged, indicted, convicted of insanity by a Sanity Commission and committed without a trial. The Commonwealth's procedure is basically constitutionally unfair to the petitioner because the Commonwealth has of its own volition and on its own motion, and over petitioner's vigorous objections obtained an indefinite commitment to an institution for the criminally insane without giving petitioner the opportunity to a trial where he could confront the witnesses against him, defend himself and be judged by his peers rather than being tried, judged and convicted by two psychiatrists and a lawyer.

The amendatory Act of June 13, 1957, P.L. 296 § 1, 50 Pennsylvania Purdon's Statutes § 1224 stated:

> ". . . The term 'insanity' . . . shall mean that such person does not have capacity to understand the nature and object of the proceedings against him, to comprehend his own condition in reference to such proceedings, to understand the nature of the punishment to be inflicted upon him, and to confer with his counsel with reference thereto."

Assuming arguendo that the District Attorney who interrogated the petitioner, held him incommunicado, had him arrested, charged and indicted, also had the right to initiate the mental commitment proceedings, by what right did the Sanity Commission conclude that petitioner did not understand the charges against him and was unable to confer with counsel? The last three pages of the transcript report-

ing the Sanity Commission's hearings of April 18, 1967 contain counsel's statements that petitioner did understand the charges and was able to confer with counsel to prepare a defense.

CONCLUSION

In 1215, King John, by the Magna Carta, guaranteed that "to no one will we sell, to no one will we refuse, or delay, right or justice" and "no free man shall be taken or imprisoned - or anywise destroyed . . . but by the lawful judgment of his peers or by the law of the land".

John Harry Bruno has been taken by law enforcement officers of Pennsylvania, imprisoned, and is being destroyed mentally and physically, without a judgment of his peers and in violation of the law of the land. In the spirit of the Jeffersonian ideal of "equal and exact justice to all men", we ask this Honorable Court to reverse the Pennsylvania Supreme Court and to direct the County Court to list the petitioner for trial.

Respectfully submitted,

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